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REVIEW OF THE IMPLEMENTATION OF COMMITMENTS AND OF OTHER PROVISIONS OF THE CONVENTION

PREPARATIONS FOR THE FIRST SESSION OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE KYOTO PROTOCOL (DECISION 8/CP.4)

Consolidated negotiating text proposed by the President*

The consolidated negotiating text proposed by the President is issued in several parts. The present document contains an introduction and an overview. The draft decisions under negotiation are contained in the following addenda:

		Document
I.	Decisions concerning finance, technology transfer, adaptation, capacity-building, Article 4.8 and 4.9 of the Convention and Article 3.14 of the Kyoto Protocol	FCCC/CP/2001/2/Add.1
II.	Decisions concerning mechanisms pursuant to Articles 6, 12 and 17 of the Kyoto Protocol	FCCC/CP/2001/2/Add.2
III.	Decisions concerning land-use, land-use change and forestry	FCCC/CP/2001/2/Add.3/Rev.1
IV.	Decisions concerning guidelines under Articles 5, 7 and 8 of the Kyoto Protocol	FCCC/CP/2001/2/Add.4
V.	Decisions concerning activities implemented jointly, policies and measures and impacts of single projects	FCCC/CP/2001/2/Add.5
VI.	Decisions concerning procedures and mechanisms relating to compliance under the Kyoto Protocol	FCCC/CP/2001/2/Add.6

* FCCC/CP/2001/2 and Corr.1 and FCCC/CP/2001/2/Add.3 were not processed by the United Nations Office at Geneva. They have been withdrawn and replaced by FCCC/CP/2001/2/Rev.1 and FCCC/CP/2001/2/Add.3/Rev.1, respectively.

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I. INTRODUCTION

A. Mandate

1. The Conference of the Parties (COP), at the first part of its sixth session, requested its President "to make proposals for the further development and consideration of ... texts at a resumed session and to seek the necessary advice beforehand in a transparent manner" (decision 1/CP.6 on Implementation of the Buenos Aires Plan of Action).

2. The consolidated negotiating text which follows responds to the above request. It is derived from the negotiating texts that the Conference transmitted to the second part of the sixth session (see FCCC/CP/2000/5/Add.3 (vol. I-V) together with the texts contained in document FCCC/CP/2000/INF.3 (vol. I-V)).[1] In developing the consolidated negotiating text, the President was able to draw on the wealth of proposed amendments to his informal note of 22 November 2000[2] submitted by Parties and contained in document FCCC/CP/2001/MISC.1.

3. The President also consulted widely in the inter-sessional period. He met with many Parties, both bilaterally and in groups, to receive their advice. In an effort to enhance transparency he made available to all Parties initial ideas on how some key political issues might be addressed.[3]

B. Scope of the note

4. The consolidated negotiating text proposed by the President seeks to present a comprehensive and balanced package of draft decisions on all issues covered by the Buenos Aires Plan of Action and, in this way, seeks to facilitate the negotiations on the outstanding issues. It should be seen as a single, integrated document although it is issued in several parts. This introduction contains an outline of the full consolidated negotiating text (see cover page above) as well as an overview. The main body of the consolidated text, comprising six addenda, contains the draft decisions to be considered and adopted by the Conference of the Parties, including, as appropriate, decisions recommended for adoption by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP).

5. The purpose of the overview (see section II below) is to provide background to some of the proposals made by the President, following his consultations, in developing the consolidated negotiating text. The decisions contained in documents FCCC/CP/2001/2/Add.4 and Add.5 are not addressed in this overview.

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[1] At the close of the first part of the sixth session, the negotiating texts under consideration totalled 285 pages and included some 2500 sets of brackets.

[2] See FCCC/CP/2000/5/Add.2, annex to decision 1/CP.6.

[3] See the paper "New proposals by the President of COP 6", 9 April 2001, at www.unfccc.int

C. Possible action by the Conference

6. The Conference may wish to consider the consolidated negotiating text, in conjunction with the negotiating texts that emerged from the first part of the session, as referred to in paragraph 2 above, and undertake the intensive negotiations that will lead to the adoption, at the close of the sixth session, of a comprehensive and balanced package of decisions on all issues covered by the Buenos Aires Plan of Action.

II. OVERVIEW

A. Approach

7. The negotiations within the framework of the Buenos Aires Plan of Action have aimed to elaborate on modalities and procedures for implementing the Kyoto Protocol and, at the same time, to find ways to advance the implementation of the United Nations Framework Convention on Climate Change (UNFCCC), especially in relation to the priorities of developing country Parties. The unfinished business from these negotiations is currently before the COP. The adoption of decisions to complete the Buenos Aires Plan of Action is intended to provide the basis for the requisite number of Parties to ratify the Kyoto Protocol and bring it into force. The entry into force of the Kyoto Protocol is acknowledged as an important step in a long-term process to find a response to global climate change that fulfils the objective of the Convention contained in its Article 2.

8. The consolidated negotiating text by the President presents a set of draft decisions that, in its entirety, tries to balance the disparate interests of Parties. It is hoped that the package as a whole contains sufficient "wins" for all Parties and, in this way, provides the basis for negotiations that lead to outcomes reflecting the common interest of all Parties in addressing climate change.

9. In view of the differences that remained on many issues at the end of the first part of the sixth session, the development of the consolidated negotiating text necessitated that choices be made on issues of great importance to Parties. The President has sought advice widely on these matters and, in the light of the advice received, has made the proposals contained in the consolidated negotiating text. The underlying philosophy is one of compromise for the common good.

10. In reviewing the consolidated negotiating text, Parties should be aware that efforts have been made to enhance the level of coherence among the various decisions that had, heretofore, been negotiated in separate groups. This has been mainly an exercise in linguistic and terminological consistency. However, special attention has been paid to the proposed new institutions in an effort to present proposals that are legally and institutionally sound. Recognizing that all decisions of the COP are of equal legal standing, and that this will also be true of the decisions of the COP/MOP, there has also been an effort to reduce duplication and overlap, and to consolidate, where possible, common elements in one decision. Other decisions then refer to rather than repeat these common elements.

11. The proposals also seek to reaffirm institutional clarity in terms of the roles of the subsidiary bodies. An effort has been made, in the spirit of Articles 9 and 10 of the Convention,

to give mandates to one subsidiary body rather than two. Each body can continue to seek input or advice from the other.

12. The sections which follow seek to highlight and explain the choices made by the President on some of the key issues.

B. Finance, technology transfer, adaptation, capacity-building, Article 4.8 and 4.9 of the Convention and Article 3.14 of the Kyoto Protocol

13. The text on finance, technology transfer, adaptation, capacity-building, Article 4.8 and 4.9 of the Convention and Article 3.14 of the Kyoto Protocol is contained in document FCCC/CP/2001/2/Add.1. The basis for this text was the negotiating text that emerged from the first part of the sixth session (see FCCC/CP/2000/5/Add.3 (vol. I and II)).

14. Developing country Parties have sought to enhance the implementation of, *inter alia*, Article 4.3, 4.4, 4.5, 4.8 and 4.9 of the Convention, while also contributing to, and promoting, the development of related new mechanisms and approaches under the Kyoto Protocol. The proposals seek to respond to the concerns of developing country Parties and to their interest in being active partners in international efforts to respond to climate change, whether through sustainable development and emission limitation or through adaptation. These decisions are grouped in one addendum because they are interrelated and have financial resources at their core.

15. To enjoy the widespread support necessary for adoption, the decisions on the completion of the Buenos Aires Plan of Action must respect a number of political and economic realities. They should:

(a) Enhance the implementation of Article 4.3, 4.4 and 4.5 of the Convention through new and additional resources;

(b) Lead to improvements in the efficiency and productivity of existing funding mechanisms rather than creating new ones;

(c) Increase funding for capacity-building and adaptation;

(d) Address the concerns of countries listed in Article 4.8 of the Convention and of least developed countries.

16. The consolidated negotiating text includes, *inter alia*, the following proposals related to finance, technology transfer, adaptation, capacity-building, Article 4.8 and 4.9 of the Convention and Article 3.14 of the Kyoto Protocol:

(a) The COP will strengthen its continuing **guidance to the Global Environment Facility (GEF)** and the GEF is requested to streamline its procedures and policies, project cycle and delivery system. The GEF is also requested to ensure that projects are responsive to national needs and priorities and integrated in national programmes (see FCCC/CP/2001/2/Add.1, draft decision on Additional guidance to an operating entity of the financial mechanism, paragraph 2);

(b) Guidance will be provided to the financial mechanism to make resources available for the implementation of Stage III adaptation activities through the GEF climate change focal area (see FCCC/CP/2001/2Add.1, draft decision on Additional guidance to an operating entity of the financial mechanism, paragraph 1 (c));

(c) An **adaptation fund** will be established to finance demonstration/pilot projects and programmes and concrete adaptation projects and programmes in developing country Parties. It will be financed from the share of the proceeds of the clean development mechanism (CDM) (2 per cent of certified emission reductions generated) and contributions from Parties included in Annex I. The adaptation fund will be operated by a council, composed according to the formula in paragraph 28 below, under the guidance of the COP/MOP (with guidance to be provided by the COP in the period prior to entry into force of the Kyoto Protocol). The GEF will be invited to make the necessary arrangements for this purpose (see FCCC/CP/2001/2/Add.1, draft decision on Funding and resource levels, paragraphs 1 to 8);

(d) A **special climate change fund** will be established to finance activities, programmes and measures related to climate change (technology transfer, capacity-building, economic diversification, energy, transport, industry, agriculture, forestry and waste management). These activities, programmes and measures will be additional and complementary to those currently funded by the resources allocated to the GEF climate change focal area and by bilateral and multilateral funding. The special climate change fund will be operated by the GEF council, under the guidance of the COP/MOP (with guidance to be provided by the COP in the period prior to the entry into force of the Kyoto Protocol). The GEF will be invited to make the necessary arrangements for this purpose (see FCCC/CP/2001/2/Add.1, draft decision on Funding and resource levels, paragraphs 9 to 14);

(e) The priorities of **least developed country (LDC) Parties** will be addressed through a separate work programme to be established by the COP. This work programme will include, *inter alia*, national adaptation programmes of action (NAPA), which will be financed by the GEF in accordance with criteria to be developed by the GEF. A LDC group of experts will be established to assist in these NAPAs. In addition, CDM projects in LDCs will be exempted from the share of the proceeds for adaptation (see FCCC/CP/2001/2/Add.1, draft decision on Implementation of Article 4.8 and 4.9 of the Convention, section III, and FCCC/CP/2001/2/Add.6, draft decision on Modalities and procedures for a clean development mechanism, paragraph 12);

(f) Activities, programmes and measures to promote the **transfer of technology** will be financed by the special climate change fund, the adaptation fund and the GEF climate change focal area. An intergovernmental consultative group of scientific and technical experts on technology transfer will be established under the Subsidiary Body for Scientific and Technological Advice (SBSTA) to address barriers to technology transfer, information needs and progress on technology transfer, as well as to enhance the implementation of Article 4.5 of the Convention (see FCCC/CP/2001/2/Add.1, draft decision on Development and transfer of technologies);

(g) In order to address the **impacts of response measures**, Parties included in Annex I will, in accordance with Article 4.8 of the Convention, assist Parties not included in Annex I by giving full consideration to the impacts of response measures and by addressing this through transfer of technologies relating to fossil fuels that capture and store greenhouse gases, capacity-building to improve the environmental efficiency of activities related to fossil fuels and economic diversification, based on methodological work (see FCCC/CP/2001/2/Add.1, draft decision on Implementation of Article 4.8 and 4.9 of the Convention, section II). Developing country Parties will report on their needs and concerns. Parties included in Annex I will report in their national communications on action taken under Article 3.14 of the Kyoto Protocol to minimise the adverse social, environmental and economic impacts on developing country Parties of their implementation of Article 3.1 of the Kyoto Protocol (such as reducing or phasing out subsidies for fossil fuel production, bearing in mind the obligation under the Convention that policies and measures should comprise all economic sectors) (see FCCC/CP/2001/2/Add.1, draft decision on Matters relating to Article 3.14 of the Kyoto Protocol, paragraph 4);

(h) The COP will recommend to the Secretary-General of the United Nations, in the context of the World Summit on Sustainable Development, to establish a high-level **climate resources committee**, with specified tasks and limited membership. The committee will develop criteria for the review of climate change contributions, monitor funding needs and availability, advise on the allocation of resources, determine whether agreed targets for funding have been achieved, mobilize additional resources, and develop policy conclusions for consideration by existing financial channels and institutions (see FCCC/CP/2001/2/Add.1, draft decision on Climate resources committee);

(i) **Resourcing** for the above-mentioned activities will be based on the following (see FCCC/CP/2001/2/Add.1, draft decision on Funding and resource levels):

(i) Parties included in Annex I to contribute new and additional resources for climate change activities in Parties not included in Annex II, on a grant or concessional basis;

(ii) Total contributions to rise to US$ one billion per year as soon as possible and not later than 2005. As an indication, the amount to be used for adaptation to rise to approximately half the resource level, over a number of years;

(iii) Contributions to be based on Annex I Parties' relative share of total carbon dioxide emissions in 1990. Those Parties included in Annex I undergoing the process of transition to a market economy shall make contributions to the fund proportional to 50 percent of their share of the total emissions in 1990;

(iv) Financial flows entering into the calculation of this target to comprise:

a. Contributions to the GEF that are allocated to the climate change focal area;

b. Contributions to the special climate change fund;

c. Contributions to the adaptation fund;

d. Bilateral and multilateral funding for climate change activities that is additional to current funding levels.

(v) Public funding for CDM projects and the CDM share of proceeds will not enter into the calculation;

(vi) Parties included in Annex I to report in their national communications on these financial flows;

(vii) Based on advice from the climate resources committee, the COP is to keep under review the percentage allocated to the adaptation fund and total funding levels, taking into account resources generated by the CDM share of the proceeds;

(viii) COP/MOP to provide guidance to the adaptation fund council and to the council managing the special climate change fund; COP/MOP to decide on policies programme priorities and eligibility criteria for both funds; the entity or entities managing the adaptation fund and the special climate change fund to report annually to the COP/MOP on the management of these funds.

17. Parties that fail to pay their share of the contributions target will be ineligible for seats in the new bodies (see FCCC/CP/2001/2/Add.1, draft decision on Funding and resource levels, paragraph 15 (e)).

C. Mechanisms

18. The text on mechanisms pursuant to Articles 6, 12 and 17 of the Kyoto Protocol is contained in document FCCC/CP/2001/2/Add.2. The basis for this text was the negotiating text that emerged from the first part of the sixth session (see FCCC/CP/2000/5/Add.3 (vol. V)).

19. The negotiations on mechanisms involve a great amount of important technical detail cast against a background of key issues regarding the prerequisites and rules for the extent of their use. Decisions are needed on issues such as guiding principles, supplementarity to domestic action, matters related to Article 4, and the use of emission reduction units (ERUs), certified emissions reductions (CERs) and assigned amount units (AAUs), all of which are now contained in a decision on principles, nature and scope of the mechanisms. Such decisions are equally needed for determining eligibility criteria for Parties and projects, the starting date of the CDM and provisions for a commitment period reserve. Overall agreement to complete the Buenos Aires Plan of Action is only possible if compromises can be reached on these points.

20. To this end, the consolidated negotiating text includes, *inter alia*, the following proposals:

(a) In using the mechanisms, Parties are to be guided by the objective and principles contained in **Articles 2 and 3** of the Convention (see FCCC/CP/2001/2/Add.2, draft decision on Principles, nature and scope of the mechanisms, preamble). In this context:

(i) Policies and measures, based on national circumstances, are at the centre of the response to climate change along with sound modalities, rules and guidelines for the mechanisms, strict principles and rules governing land-use, land-use change and forestry (LULUCF) activities and a strong compliance regime. Such policies and measures should also seek to reduce inequalities in per capita emissions between developed and developing countries. In this context, and in order to address the issue of **supplementarity**, Parties included in Annex I must meet their emission limitation and reduction commitments inscribed in Annex B to the Kyoto Protocol chiefly through domestic action since 1990, with relevant quantitative and qualitative information to be reported and reviewed. Provisions on the use of the mechanisms should apply individually to the Parties acting under **Article 4**;

(ii) CERs, ERUs, and AAUs may be used to meet commitments under Article 3.1, but without altering the quantified emission limitation and reduction commitments inscribed in Annex B to the Kyoto Protocol. CERs may also be banked towards meeting commitments in the second commitment period. It is thus recognized that the Kyoto Protocol has not created any right, title or entitlement to emissions which affect the consideration of decisions on subsequent commitment periods.

(b) The **eligibility to participate in the mechanisms** by Parties included in Annex I will be dependent on compliance with methodological and reporting requirements under Articles 5.1, 5.2, 7.1 and 7.4 of the Kyoto Protocol, with oversight being provided by the enforcement branch of the compliance committee. Only Parties that have accepted the agreement on compliance supplementing the Kyoto Protocol will be entitled to use credits generated by the use of the mechanisms (see FCCC/CP/2001/2/Add.2, draft decision on Guidelines for the implementation of Article 6, annex, paragraphs 16 and 17, draft decision on Modalities and procedures for a clean development mechanism, annex, paragraphs 30 and 31, and draft decision on Modalities, rules and guidelines for emissions trading, annex, paragraphs 2 and 3);

(c) On **issues related to Article 6 (Joint implementation)**, there are two ways for verifying reductions: the Annex I host Party itself may verify if it meets the eligibility requirements in paragraph 20 (b) above; if this is not the case, an independent verification procedure is to be pursued. In analogy to the CDM, Parties included in Annex I shall refrain from using nuclear facilities for generating ERUs (see FCCC/CP/2001/2/Add.2, draft decision on Guidelines for the implementation of Article 6, and annex, sections B-E);

(d) With regard to **issues related to Article 12, a prompt start for the CDM** is envisaged with the executive board being elected by COP 7. Operational provisions under the CDM specify that a non-Annex I host Party is to judge whether a project activity is in line with its national strategy and/or priorities on sustainable development. Notwithstanding, Parties included in Annex I will refrain from using nuclear facilities for generating CERs. If public funding from Parties included in Annex I is used for CDM projects, this should not result in the diversion of official development assistance. In order to facilitate the equitable regional

distribution of CDM projects, simplified procedures will apply to specific small-scale projects, with the possibility of the executive board reviewing and, if necessary, recommending additional categories to the COP/MOP. It should also be recalled that CDM projects in LDCs are to be exempt from the share of proceeds for funding adaptation (see FCCC/CP/2001/2/Add.2, draft decision on Modalities and procedures for a clean development mechanism);

(e) Afforestation and reforestation projects are to be the only eligible land-use, land-use change and forestry **(LULUCF) projects under the CDM** during the first commitment period. Implementation of such projects will be guided by the principles referred to in paragraph 23 (b) below and modalities to be developed by the SBSTA for decision at COP 8. The modalities to be addressed include non-permanence, additionality, leakage, scale, uncertainties, socio-economic and environmental impacts (including impacts on bio-diversity and natural ecosystems). Treatment of LULUCF projects under the CDM in future commitment periods is to be decided as part of the negotiations on the second commitment period (see FCCC/CP/2001/2/Add.2, draft decision on Modalities and procedures for a clean development mechanism, paragraphs 8 and 9);

(f) On issues related to **Article 17 (Emissions trading)**, a Party included in Annex I is to maintain, in its national registry, a **commitment period reserve** which should not drop below 90 per cent of the Party's assigned amount calculated pursuant to Article 3.7 and 3.8 of the Kyoto Protocol or five times its most recently reviewed inventory, whichever is lowest (see FCCC/CP/2001/2/Add.2, draft decision Modalities, rules and guidelines for emissions trading, Annex, paragraphs 6 to 9).

D. Land-use, land-use change and forestry

21. The text on land-use, land-use change and forestry (LULUCF) is contained in document FCCC/CP/2001/2/Add.3. The basis for this text was the negotiating text that emerged from the first part of the sixth session (see FCCC/CP/2000/5/Add.3 (vol. IV)).

22. During the President's inter-sessional consultations, the high importance attached to LULUCF by many Parties was confirmed. Sinks play a key role in the international response to climate change. No overall agreement on the Buenos Aires Plan of Action is possible without reflecting this reality. The President's proposals seek to confirm and clarify the role for LULUCF activities while at the same time including:

(a) Safeguards to guarantee substantial levels of emission reductions in Parties included in Annex I;

(b) Safeguards to ensure environmental integrity;

(c) Careful accounting procedures;

(d) Provisions for further technical work to improve the state of knowledge.

23. The consolidated negotiating text includes, *inter alia*, the following proposals on LULUCF:

(a) **Definitions** of "forests", "afforestation", "reforestation" and "deforestation";

(b) **Principles** governing LULUCF activities (see FCCC/CP/2001/2/Add.3, draft decision (-/CMP.1) on Land-use, land-use change and forestry);

(c) A decision that activities in the fields of forest management, cropland management, grazing land management and revegetation will be **eligible under Article 3.4** of the Kyoto Protocol (see FCCC/CP/2001/2/Add.3, draft decision on Land-use, land-use change and forestry, annex, paragraph 6);

(d) Accounting rules, including a **three-tiered proposal** for eligible activities under Article 3.4 that involves:

(i) Compensation of possible Article 3.3 debits through accounting for forest management (up to 8.2 megatons of carbon per Party per year) (no discount applied to Article 3.4 credits up to this level);

(ii) An 85 per cent discount on forest management activities beyond the first tier;

(iii) Net-net accounting for agricultural management.
(See FCCC/CP/2001/2/Add.3, draft decision on Land-use, land-use change and forestry, annex, paragraphs 8, 9 and 11.)

(e) An exemption for the application of the discount described in paragraph 23 (d) above to a level of 13 megatons of carbon per year, in case a Party meets three criteria related to energy efficiency, forest cover, and population density (see FCCC/CP/2001/2/Add.3, draft decision on Land-use, land-use change and forestry, annex, paragraph 10);

(f) The following two "**boundary conditions**" are applied to the sum total of LULUCF credits in the first commitment period resulting from: Article 3.4 (the second and third tiers as specified in paragraph 23 (d) (ii) and (iii) above), ERUs (in accordance with Article 6 of the Kyoto Protocol) and CERs (in accordance with Article 12 of the Kyoto Protocol):

(i) The total amount of credits is not to exceed half of the reduction commitment of a Party if its reduction commitment in Annex B is less than 100;

(ii) The total amount of credits is not to exceed 2.5 per cent of the base year emissions per year of a Party times five if its reduction commitment in Annex B is 100 or greater.
(See FCCC/CP/2001/2/Add.3, draft decision on Land-use, land-use change and forestry, annex, paragraphs 18 and 19.)

(g) Requests to the **SBSTA and the Intergovernmental Panel on Climate Change (IPCC)** to undertake further work:

SBSTA: consideration of methodologies for the possible inclusion of degradation and devegetation under Article 3.4 of the Kyoto Protocol in the first commitment period, and the investigation of the application of biome-specific forest definitions for future commitment periods.

IPCC: elaboration of reporting guidelines for LULUCF activities, preparation of a report on good practice guidance, development of methodologies for the inclusion of degradation and devegetation under Article 3.4 of the Kyoto Protocol, and development of methodologies to separate human-induced effects on carbon stocks from indirect human-induced effects, effects due to past practices in forests and natural effects.
(See FCCC/CP/2001/2/Add.3, draft decision (-/CP.6) on Land-use, land-use change and forestry, paragraphs 1 and 3.)

E. Compliance

24. The text on compliance is contained in document FCCC/CP/2001/2/Add.6. The basis for this text was the negotiating text that emerged from the first part of the sixth session (see FCCC/CP/2000/5/Add.3 (vol. IV)).

25. The President's inter-sessional consultations focused on three issues: the mandates of the enforcement and facilitative branches of the compliance committee, the legally-binding consequences of non-compliance to be applied by the enforcement branch, and the basis of adoption of the compliance regime.

26. The consolidated negotiating text is drafted as a formal agreement supplementing the Kyoto Protocol and includes, *inter alia*, the following proposals:

(a) The legally-binding consequences of non-compliance to be applied by the enforcement branch are directed to secure compliance as soon as possible, in order to ensure that the overall objective of the Kyoto Protocol is achieved. These consequences include deduction from the assigned amount of the subsequent commitment period of a number of tonnes in accordance with a stepped rate that increases with the amount of non-compliance, a requirement to submit for review and assessment a compliance action plan to meet commitments, and the suspension of eligibility under Article 17 of the Kyoto Protocol (see FCCC/CP/2001/2/Add.6, draft decision on Procedures and mechanisms relating to compliance, annex, Article 14);

(b) The consideration of compliance with commitments is clearly assigned to either the enforcement branch or to the facilitative branch. The scope for the enforcement branch is limited (Articles 3.1, 5.1, 5.2, 7.1 and 7.4 of the Kyoto Protocol, as well as eligibility requirements under Articles 6, 12 and 17 of the Kyoto Protocol). There is no procedure for appeals. However, in the case of the enforcement branch, preliminary findings will be communicated to Parties, with an opportunity to comment, before a final decision is adopted

(see FCCC/CP/2001/2/Add.6, draft decision on Procedures and mechanisms relating to compliance, annex, Articles 5 and 9).

27. In order to ensure a fair and equitable system, it is also proposed that the commitments for Annex I Parties for the second commitment period should be adopted before 2008[4] (see FCCC/CP/2001/2/Add.6, draft decision on Matters relating to commitments for the second commitment period, paragraph 1(b)).

F. Governance of new bodies

28. The President's inter-sessional consultations confirmed that views continue to differ on the question of how the new bodies being established should be composed and governed. The following compromise proposal is therefore reflected in the relevant draft decisions:

(a) All new bodies[5] would have the same 10-member composition based on equal representation of the five United Nations regional groups, taking into account interest groups as reflected by the current practice in the UNFCCC Bureau, and common but differentiated responsibilities and respective capabilities:

(i) One member from each of the five United Nations regional groups, plus one member representing the small island developing States;

(ii) Two other members from Parties included in Annex I;

(iii) Two other members from Parties not included in Annex I.

(b) The principle of rotation would govern membership and chairmanship;

(c) For bodies established under the Kyoto Protocol, members to be elected by the COP/MOP from amongst Parties to the Kyoto Protocol.

29. Decisions will be taken by consensus or, failing that, by a three-quarters majority in all bodies except in the enforcement branch of the compliance committee where, in addition, a majority of Parties included in Annex I and a majority of Parties not included in Annex I will be required.

30. Guidance to the bodies will be provided by the COP or the COP/MOP and will be of a general nature rather than for individual cases.

31. All new bodies will be serviced by the UNFCCC secretariat, except for the adaptation fund council.

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[4] Pursuant to Article 3.9 of the Kyoto Protocol, the consideration of such commitments shall be initiated at least seven years before the end of the first commitment period.

[5] CDM executive board, Article 6 supervisory committee, adaptation fund council, compliance committee facilitative branch, compliance committee enforcement branch, intergovernmental consultative group of scientific and technical experts on technology transfer.